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GLEN LITTLETON and the Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE TESLA, INC. SECURITIES
LITIGATION

Case No. 3:18-cv-04865-EMC

**STIPULATION AND [PROPOSED] ORDER
FOR CLASS CERTIFICATION**

WHEREAS, by Order dated November 27, 2018, the Court appointed Glen Littleton (“Littleton” or “Plaintiff”) as lead plaintiff in this action (Dkt. No. 152).

WHEREAS, on September 21, 2020, the Court entered an Order granting the parties’ stipulation that Plaintiff’s proposed class meets the requirements of numerosity and commonality under Federal Rules of Civil Procedure 23(a)(1) and 23(a)(2) (Dkt. No. 288).

1 WHEREAS, on September 22, 2020, Plaintiff filed his Motion for Class Certification (Dkt.
2 No. 289).

3 WHEREAS, Plaintiff asserts that his Motion for Class Certification presents facts and
4 arguments that the proposed class satisfies the prerequisites under Federal Rules of Civil Procedure
5 23(a) and 23(b)(3).

6 WHEREAS, the parties have conferred regarding class certification with respect to
7 Plaintiff's claims and have agreed, subject to approval of the Court, to stipulate on the terms set
8 forth below to the certification of a class under Federal Rules of Civil Procedure 23(a) and 23(b)(3),
9 the appointment of the Class Representative under Federal Rule of Civil Procedure 23(a)(4), and
10 the appointment of Class Counsel under Federal Rule of Civil Procedure 23(g).

11 WHEREAS, for purposes of class certification only, Defendants stipulate that Tesla, Inc.
12 common stock, options, and other securities traded in an efficient market at all relevant times and
13 do not seek to rebut the presumption of reliance. The parties agree that, except for these purposes,
14 Defendants reserve all rights and defenses, objections, or arguments, including to the September
15 22, 2020 Expert Report of Michael L. Hartzmark and opinions contained therein, that may be
16 asserted in a summary judgment motion, in a *Daubert* motion, at trial or at any other stage of this
17 litigation.

18 WHEREAS, for purposes of class certification, Plaintiff and Defendants agree to the terms
19 and conditions set forth in this stipulation.

20 **NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by counsel for
21 the parties listed below, subject to the approval of the Court, that:

22 1. For purposes of class certification only, pursuant to Federal Rule of Civil Procedure
23 23(a)(3), the parties agree that the claims of Plaintiff are typical of the claims of the class because
24 he seeks to recover damages allegedly caused by the same alleged course of conduct.

25 2. For purposes of class certification only, the parties agree that Plaintiff purchased or
26 sold Tesla, Inc. stock or options during the proposed Class Period of August 7, 2018 to August 17,
27 2018. The parties agree that pursuant to Federal Rule of Civil Procedure 23(a)(4), Plaintiff will
28 fairly and adequately protect the interests of the class. The parties also agree that Plaintiff's

1 proposed Class Counsel, the law firm of Levi & Korsinsky, LLP, is competent, experienced, and
2 will vigorously pursue its duties to the class.

3 3. For purposes of class certification only, the parties agree that, pursuant to Federal
4 Rule of Civil Procedure 23(b)(3), questions of law or fact common to class members predominate
5 over any questions affecting only individual members, and a class action is superior to other
6 available methods for fairly and efficiently adjudicating the controversy.

7 4. Based on the foregoing, the following class is certified: “All individuals and entities
8 who purchased or sold Tesla stock, options, and other securities from 12:48 p.m. EDT on August
9 7, 2018 to August 17, 2018 and were damaged thereby” (the “Class”).

10 5. Excluded from the Class are: Defendants; the officers and directors of Tesla, Inc.
11 at all relevant times; members of their immediate families and their legal representatives, heirs,
12 successors, or assigns; and any entity in which Defendants have or had a controlling interest.

13 6. Littleton is appointed Class Representative for the Class.

14 7. Levi & Korsinsky, LLP is appointed Class Counsel for the Class.

15 8. The parties reserve their right to seek alteration or amendment of this order pursuant
16 to Federal Rule of Civil Procedure 23(c).

17 9. By entering into this Stipulation, Plaintiff and Defendants do not waive any
18 substantive defenses, objections, or arguments that otherwise could be asserted in a summary
19 judgment motion, in a *Daubert* motion, at trial or at any other stage of this litigation.

20 10. Upon entry of this Order, the parties shall promptly meet and confer regarding an
21 appropriate form, content, and method of providing the notices to be disseminated to the Class
22 pursuant to Federal Rule of Civil Procedure 23(c)(2)(B).

23 11. No later than sixty (60) days following the entry of this Order Certifying the Class,
24 the parties shall submit a mutually satisfactory stipulation and proposed order setting forth the
25 agreed-upon form, content, and method of providing the notices to be disseminated to the Class
26 pursuant to Federal Rule of Civil Procedure 23(c)(2)(B).

27 12. If the parties are unable to reach an agreement regarding an appropriate form,
28 content, and method of providing notice to the Class, Plaintiff shall move for an order approving a

1 proposed form, content, and method of providing notices to the Class pursuant to Federal Rule of
2 Civil Procedure 23(c)(2)(B) no later than sixty (60) days following the entry of this Order
3 Certifying the Class.

4
5 Dated: November 23, 2020

COOLEY LLP

6 By: /s/ Patrick E. Gibbs

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23 *Musk, and Linda Johnson Rice*

1 Dated: November 23, 2020

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28 *Attorneys for Lead Plaintiff Glen Littleton and
Lead Counsel for the Class*

Pursuant to Civil Local Rule No. 5-1(i)(3), all signatories concur in filing this Stipulation.

23 Dated: November 23, 2020

COOLEY LLP

24 By: /s/ Patrick E. Gibbs

25 PATRICK E. GIBBS

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SO ORDERED. This fully resolves Plaintiff’s Motion for Class Certification, Dkt. No.
289.

Dated: _____

HON. EDWARD M. CHEN
United States District Judge